IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):

R. Jalan, L. Yun, I. Hsu

Assignee:

Foundry Networks, Inc.

Title:

Method for Providing Scalable Multicast Service in a Virtual Private

LAN Service

Serial No.:

10/632,484

Filing Date:

August 1, 2003

Examiner:

W. Lin

Group Art Unit: 2154

Docket No.:

M-15185 US

San Jose, California October 30, 2008

Commissioner For Patents P.O. Box 1450 Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

Dear Sir:

On September 23, 2008, Applicants' undersigned attorney received a telephone call from Examiner Wen-Tai Lin inquiring about a response to the final office action mailed on March 4, 2008 (the "Final Office Action") in the above-referenced patent application. Up to that time, Applicants was not aware of, and did not receive, the Final Office Action. Upon reviewing the file history on the Patent Application Information Retrieval (PAIR) system, the Applicants' Attorney and the Examiner discovered that the Final Office Action was returned to the U.S. Patent and Trademark Office (USPTO) because the Final Office Action was sent to a previous address of Applicants' Attorney which is no longer valid. Applicants attach herewith, as Exhibit A, a copy of the envelope bearing a stamp of the USPTO showing that the returned mail was received at the USPTO on March 14, 2008.

The mailing of the Final Office Action to an invalid address was an error of the

LAW OFFICES OF cPherson, Kwok, Chen & Heid LLP

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USPTO. This is because even though Applicants' Attorney filed a Change of Correspondence Address on November 27, 2007 ("Change of Correspondence Address") to request that the correspondence in the above-referenced Application be mailed to the address associated with the Customer Number (32605), the correspondence address for this Application in the USPTO's records was not updated. A copy of the Change of Correspondence Address, also retrieved from the PAIR system, is attached herewith as Exhibit B. The PAIR system shows that the Change of Correspondence Address was made part of the Image File Wrapper on November 27, 2007.

Because Applicants were not informed of the Final Office Action until after the statutory six-month time for reply has lapsed, as a result of an error of the USPTO, Applicants hereby respectfully petition that the Commissioner reset time for reply for the Final Office Action, and withdraw any holding of abandonment in this Application. To facilitate prosecution of the present Application without further delay, Applicants submit herewith also a Request for Continued Examination, together with a requsite submission that is responsive to the Final Office Action.

If the Commissioner has any question regarding the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant at 408-392-9250.

Certificate of Transmission: I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office (USPTO) via the USPTO's electronic filing system on October 30, 2008.

Attorney for Applicant(s)

Date of Signature

Respectfully submitted,

Edward C. Kwok

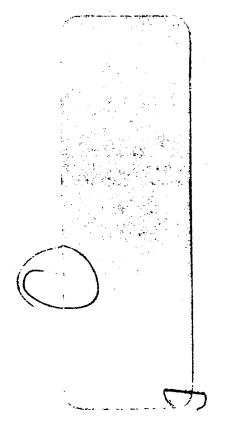
Attorney for Applicant(s)

Reg. No. 33,938

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EXHIBIT A

OFFICIAL BUSINESS PENALTY FOR PRIVATE USE, \$300





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D STATES PATENT AND TRADEMARK OFFICE UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov CONFIRMATION NO. ATTORNEY DOCKET NO. APPLICATION NO FILING DATE FIRST NAMED INVENTOR M-15185 US 2999 08/01/2003 Rajkumar Jalan 10/632,484 03/04/2008 7590 **EXAMINER** Edward C. Kwok LIN, WEN TAI MacPHERSON KWOK CHEN & HEID LLP Suite 226 ART UNIT PAPER NUMBER 1762 Technology Drive 2154 San Jose, CA 95110 DELIVERY MODE MAIL DATE

Please find below and/or attached an Office communication concerning this application or proceeding.

03/04/2008

PAPER

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)		
	10/632,484	JALAN ET AL.		
Office Action Summary	Examiner	Art Unit		
	Wen-Tai Lin	2154		
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address		
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DV. Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period v. Failure to reply within the set or extended period for reply will, by statute. Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).		
Status		·		
1) Responsive to communication(s) filed on 27 N	ovember 2007			
<u> </u>	action is non-final.	•		
3) Since this application is in condition for allowar	nce except for formal matters, pro	osecution as to the merits is		
closed in accordance with the practice under E				
Disposition of Claims		·		
·	ading in the application	·		
4)⊠ Claim(s) <u>1,5-7,9-17,21-23 and 25-63</u> is/are per 4a) Of the above claim(s) is/are withdraw				
5) Claim(s) is/are allowed.	with from consideration.			
6) Claim(s) 1. 5-7. 9-17. 21-23, and 25-41. 43-51	and 53-62 is/are rejected			
7) Claim(s) is/are objected to.	and co co			
8) Claim(s) 42.52 and 63 are subject to restriction	and/or election requirement.			
•, <u>-1,-1,-1,-1,-1,-1,-1,-1,-1,-1,-1,-1,-1,-</u>		•		
Application Papers				
9) The specification is objected to by the Examine	r.			
10)☐ The drawing(s) filed on is/are: a)☐ acc	epted or b)	Examiner.		
Applicant may not request that any objection to the	drawing(s) be held in abeyance. Se	e 37 CFR 1.85(a).		
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).				
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.				
Priority under 35 U.S.C. § 119				
12)☐ Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) ☐ All b) ☐ Some * c) ☐ None of:				
1. Certified copies of the priority documents have been received.				
2. Certified copies of the priority documents have been received in Application No				
3. Copies of the certified copies of the priority documents have been received in this National Stage				
application from the International Bureau (PCT Rule 17.2(a)).				
* See the attached detailed Office action for a list	of the certified copies not receive	ed.		
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·	•			
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Attachment(s) 1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)		
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date				
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 12/07. 5) Notice of Informal Patent Application 6) Other:				

DETAILED ACTION

1. Claims 1, 5-7, 9-17, 21-23, and 25-63 are presented for examination. Claims 33-63 are newly added.

Restriction

- 2. Restriction to one of the invention is required under 35 U.S.C. 121 because the invention contains two different species, which are independent or distinct because:
 - I. Claim1, 5-7, 9-17, 21-23, and 25-41, 43-51 and 53-62, are drawn to packet framing and transmission of information, classified in class 709, subclass.
 - II. Claims 42, 52 and 63, are drawn to network access regulating, classified in class709, subclass 225.
- 3. Since claims 42, 52 and 63 are added by amendment following action by the examiner, Applicant is required to restrict the claims to the invention previously claimed (see 37 CFR 1.145 and MPEP 818.01 and 818.02(a)).
- 4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

- 5. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case, in either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.
- 6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 7. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.
- 8. Claims 36-39, 43-52 and 57-60 is/are objected to because the following terms lack antecedent basis:

in claim(s) 50:

"the second network";

in claim(s) 37-39, 47-49 and 58-60: "the ip multicast routing protocol";

in claim(s) 43-44, 46, 49 and 51:

"the virtual private lan service";

in claim(s) 36, 46 and 57:

"the association"; and

in claim(s) 36:

"the internet protocol multicast group address".

Claim Rejections - 35 USC § 102

- 9. Claims 1, 5, 9-11, 13-17, 21, 25-27, 29-34, 37-39, 41, 43-44, 47-49, 51, 53-55, 58-60 and 62 are rejected under 35 U.S.C. 102(e) as being anticipated by Wiget et al.[U.S. Pat. 6640251].
- 10. As to claim 1, Wiget teaches the invention as claimed including: a method for providing, in a service provider's network, a multicast capability for a customer packet of a virtual private LAN service [e.g., Abstract; col.3, lines 29-39; Figs. 1a and 1b], comprising:

assigning the virtual private LAN service an Internet Protocol (IP) multicast group address in a private domain of the service provider's network [e.g., col.4, lines 17-25 and 48-50];

at a provider edge device [e.g., a configured IP VPN interface; 13-16, Fig.1a; col.2, lines 65-67] associated with the virtual private LAN service [e.g., col.4, lines 50-56], encapsulating the customer packet of the virtual private LAN service in an IP packet designating the IP multicast group address [e.g., Figs. 2a and 2b];

transmitting the IP packet over the service provider's network an IP multicast routing protocol from the provider edge device to a plurality of other provider edge devices associated with the virtual private LAN service [e.g., col.5, lines 24-32]; and

at each of the other provider edge devices associated with the virtual private LAN service, upon receiving the IP packet, recovering the customer packet [e.g., col.5, lines 57-65].

- 11. As to claim 5, Wiget further teaches that the Internet Protocol multicast group address associated with the virtual private LAN service is selected from a range set aside by the service provider for use with virtual private LAN services [e.g., col.3, lines 1-4].
- 12. As to claim 9, Wiget further teaches that the IP multicast routing protocol comprises a source-based routing protocol [e.g., col.7, lines 19-25; i.e., Ethernet protocol is a source-based routing protocol].
- 13. As to claim 10, Wiget further teaches that the IP multicast routing protocol comprises a core-based routing protocol [e.g., col. 8, lines 3-9; e.g., IPsec is a core-based routing protocol].
- 14. As to claim 11, Wiget further teaches that the IP multicast routing protocol creates a distribution tree for distributing the IP encapsulated customer packet for the virtual private LAN service [e.g., col.2, lines 43-47].
- 15. As to claim 13, Wiget further teaches that the service provider provides the virtual private LAN service in the context of a Layer 2 virtual private network [e.g., col. 3, lines 10-15].

- 16. As to claim 14, Wiget teaches that the method further comprises receiving the customer packet at the provider edge device originating from a customer edge device of a virtual LAN [e.g., Figs. 1a and 1b and Figs. 4-5].
- 17. As to claims 15-16, Wiget teaches that the method further comprises accepting into the service provider's network an IP packet for the virtual private LAN service only from the provider edge devices associated with the virtual private LAN service, and at each of the other provider edge device, forwarding the customer packet to a customer edge device of a virtual LAN. [13-16, Fig. 1a; col.3, lines 41-47; col.2, lines 65-67].
- 18. As to claims 17, 21, 25-27, 29-34, 37-39, 41, 43-44, 47-49, 51, 53-55, 58-60 and 62, since the features of these claims can also be found in claims 1, 5, 9-11 and 13-16, they are rejected for the same reasons set forth in the rejection of claims 1, 5, 9-11 and 13-16 above.

Claim Rejections - 35 USC § 103

- 19. Claims 6, 22, 35, 45 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiget et al.(hereafter "Wiget")[U.S. Pat. 6640251], as applied to claims 1, 5, 9-11, 13-17, 21, 25-27, 29-34, 37-39, 41, 43-44, 47-49, 51, 53-55, 58-60 and 62 above.
- 20. As to claim 6, Wiget does not specifically teach that the range set aside by the service, provider is selected from a range having an administrative scope local to the service provider's network.

- 21. However, Wiget teaches that each tunnel endpoint has an address assigned out of the Provider address space [col.3, lines 1-4]. Thus, it is obvious that each IP backbone provider must also have selected a range of IP multicast group addresses, allocated within each provider's address space, to cover all the tunnel endpoints it intends to interconnect because the range of IP multicast group addresses competes against the general IP address space allocated to each service provider and a range meeting an administrative scope local to the service provider's network would optimize the utilization of each provider's IP address space.
- 22. As to claims 22, 35, 45 and 56, since the features of these claims can also be found in claims 1, 5-6, 17, 21, 33-34, 43-44, 53 and 55, they are rejected for the same reasons set forth in the rejection of claims 1, 5-6, 17, 21, 33-34, 43-44, 53 and 55 above.
- 23. Claims 7, 12, 23, 28, 36, 40, 46, 50, 57 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiget et al.(hereafter "Wiget")[U.S. Pat. 6640251], as applied to claims 1, 5-6, 9-11, 13-17, 21-22, 25-27, 29-35, 37-39, 41, 43-45, 47-49, 51, 53-56, 58-60 and 62 above, further in view of Lee [U.S. PGPub 20040165600].
- 24. As to claim 7, Wiget does not specifically teach that the method further comprises distributing the Internet Protocol multicast group address using a name server.

However, in the same field of endeavor, Lee teaches using a domain name server (DNS) to obtain remote site addresses.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lee's teaching in Wiget's system because DNS already exists in the Internet world and it would be efficient to add the IP multicast group addresses search as part of the globally available DNS service.

- 25. As to claim 12, Lee teaches that the method further comprises providing the virtual private LAN service in the service provider's network using an Internet Protocol/Multi-protocol label switching service [e.g., paragraph 15 and claim 4].
- 26. As to claims 23, 28, 36, 40, 46, 50, 57 and 61, since the features of these claims can also be found in claims 1, 7, 12, 17, 33, 43 and 53, they are rejected for the same reasons set forth in the rejection of claims 1, 7, 12, 17, 33, 43 and 53 above.
- 27. Applicant's arguments with respect to claims 1-32 on 11/27/07 have been considered but are most in view of the new ground(s) of rejection.
- 28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- 29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Examiner note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the contest of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday(8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 for official communications; and

(571) 273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

February 21, 2008

/Wen-Tai Lin/

Primary Examiner, Art Unit 2154

Applicant(s)/Patent Under Application/Control No. Reexamination JALAN ET AL. 10/632,484 Notice of References Cited Examiner Art Unit Page 1 of 1 Wen-Tai Lin 2154 **.U.S. PATENT DOCUMENTS Document Number** Date Classification Name Country Code-Number-Kind Code MM-YYYY 709/238 US-6,640,251 10-2003 Wiget et al. US-В US-С US-D US-Ë US-F G US-USн US-US-J USκ US-US-М FOREIGN PATENT DOCUMENTS **Document Number** Date Classification Country Name Country Code-Number-Kind Code MM-YYYY Ν 0 Ρ Q R s T **NON-PATENT DOCUMENTS** Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) U W

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).) Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office PTO-892 (Rev. 01-2001)

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Notice of References Cited

Part of Paper No. 20080221

PTO/SB/088 (12-07)

Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE are required to respond to a collection of information unless it contains a valid OMB control number.

Complete if Known DEC 1 0 2007 Under the Paperwork Substitute for form 1449/PTO **Application Number** 10/632,484 INFORMATION DISCLOSURE Filing Date August 1, 2003 STATEMENT BY APPLICANT **First Named Inventor** Rajkumar Jalan Art Unit 2154 (Use as many sheets as necessary) **Examiner Name** Lin, Wen Tai Sheet 1 Attorney Docket Number M-15185 US

Examiner Initials*	Cite No.1				
W⊔		KOMPELLA, K, et al., "Virtual Private LAN Service," Version 00, November 2001, http://www.ietf.org/ (11 pages)			
WL∕		KOMPELLA, K, et al., "Virtual Private LAN Service," Version 01, November 2001, http://www.ietf.org (14 pages)			
WL/		LASSERRE, M., et al., "Virtual Private Lan Services over MPLS," Version 01, September 2002, http://www.ietf.org/ (19 pages);			
/WL/		LASSERRE, M., et al., "Virtual Private Lan Services over MPLS," Version 02 September 2002, http://www.ietf.org/ (24 pages)			
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Examiner		Date	
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Signature	/Wen Tai Lin/ (02/20/2008)	Considered	
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^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.

This collection of Information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

EXHIBIT B

PTO/SB/122 (01-06)

Approved for use through 12/31/2008. OMB 0651-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

CHANGE OF CORRESPONDENCE ADDRESS Application

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Application Number	10/632,484
Filing Date	August 1, 2003
First Named Inventor	Rajkumar Jalan
Art Unit	2154
Examiner Name	Lin, Wen Tai
Attorney Docket Number	M-15185 US

					
Please char	ge the Correspondence Add	dress for the above	-identified pate	ent application	n to:
1./	dress associated with mer Number:				
OR	_				
Firm o	r ual Name ^{MacPherson} Kwok	Chen & Heid LLP			
Address					
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	Applicant/Inventor				
	Assignee of record of the entire interest. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).				
V	P				
Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number					
Signature (du Okill)					
Typed or Printed Name	Edward C. Kwok				
Date November 27, 2007		Telephone (40	Telephone (408) 392-9250		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.					
<u> </u>					

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.